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In the Supreme Court of the United States.

OCTOBER TERM, 1903.

HENRY O. HOUGHTON, TRUSTEE, ET AL., appellants,
v.
HENRY C. PAYNE, POSTMASTER-GENERAL, appellee. } No. 372.

BATES & GUILD COMPANY, APPELLANT,
v.
HENRY C. PAYNE, POSTMASTER-GENERAL, appellee. } No. 373.

ORMOND G. SMITH ET AL., APPELLANTS,
v.
HENRY C. PAYNE, POSTMASTER-GENERAL, appellee. } No. 481.

MOTION TO ADVANCE.

Comes now the Solicitor-General, on behalf of the appellee, Henry C. Payne, Postmaster-General, and, with the consent and concurrence of counsel for the appellees, respectfully moves the court to advance the above-entitled causes for hearing at the earliest day which the court may deem convenient for the purpose; and in support of said motion respectfully submits the following considerations:

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These causes are all appeals from final decrees of the court of appeals of the District of Columbia, dismissing bills praying that the complainants might be declared to be entitled to have their respective publications received and transmitted as mailable matter of the second class and that the Postmaster-General be enjoined from refusing so to receive and transmit them.

Two main points common to the three cases are:

First. Whether a finding of fact by the Postmaster-General that publications offered for transmission at the second-class rates of postage are not periodical publications chargeable at that rate, but books, chargeable at the third-class rate, can be reviewed by the supreme court of the District of Columbia upon a bill for an injunction.

Second. Whether the Postmaster-General, for the time being, is precluded from determining the real character of mail matter currently offered for transmission by reason of the receipt, by a former Postmaster-General, of matter of the same or similar character.

The final and authoritative determination of these questions is of vital and pressing importance to the daily administration of the Post-Office Department. In that Department findings of the same general nature as those challenged in these cases are required to be made to the number of five or six thousand annually. It is, therefore, most essential that the Post-Office Department

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should not be left in doubt as to the scope and extent of its duty and function in the premises.

Although the interests directly involved in the cases at bar are by no means inconsiderable in themselves, the cases derive their chief importance from the fact that they will doubtless be controlling upon a whole class, including a large number of cases now pending in the supreme court of the District of Columbia and a still larger number awaiting their determination.

It is estimated that the postal revenues affected by this litigation amount to several million dollars per year. It would, therefore, be in the interest not only of the United States, but of the appellants and all other publishers in a like situation, that there should be as speedy a determination of the matter as possible.

For these reasons it is respectfully suggested that the court will advance the causes for hearing at the earliest convenient day.

HENRY M. HOYT,
Solicitor-General.

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